

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE PROVISION     )  
OF STANDARD OFFER SUPPLY TO        )  
RETAIL CONSUMERS IN THE SERVICE    )  
TERRITORY OF DELMARVA POWER &     )     PSC DOCKET NO. 22-0703  
LIGHT COMPANY                            )  
(FILED AUGUST 19, 2022)                )

**ORDER NO. 10160**

**AND NOW**, this 11<sup>th</sup> day of January 2023, the Delaware Public Service Commission (the “Commission”) determines and orders the following

**WHEREAS**, in October 2005, the Commission approved a Request for Proposal (“RFP”) process for Delmarva Power & Light Company (“Delmarva”) to procure supply from the wholesale electric market for resale to its Standard Offer Service (“SOS”) customers, in accordance with the Electric Utility Restructuring Act of 1999 (the “Act”);<sup>1</sup> and

**WHEREAS**, in April 2006, the General Assembly revised the Act’s SOS provisions but carried forward the RFP process established for procuring at least 30% of Delmarva’s overall SOS load;<sup>2</sup> and

**WHEREAS**, after each of the first two SOS procurement years, the Commission changed the RFP process and the framework for public disclosure of the results;<sup>3</sup> and

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<sup>1</sup>See PSC Order No. 6746 (Oct. 11, 2005).

<sup>2</sup>See 26 Del. C. §1007(c)(1)a, added by the “Electric Utility Retail Customer Supply Act of 2006,” 75 Del. Laws Ch. 242 (April 6, 2006).

<sup>3</sup>See PSC Order Nos. 7053 (Oct. 17, 2006) and 7284 (Sept. 18, 2007).

**WHEREAS**, in September 2008, the Commission approved Delmarva's request to remove the obligation of wholesale suppliers to provide Renewable Energy Credits ("RECs") from the Full Requirements Service Agreement ("FSA");<sup>4</sup> and

**WHEREAS**, in October 2008, pursuant to 26 *Del. C.* § 1007(c)(1) and its continuing jurisdiction, the Commission approved Delmarva's request to utilize a reverse auction process conducted by World Energy Solutions Inc. ("World Energy")<sup>5</sup> in its next annual SOS procurement process;<sup>6</sup> and

**WHEREAS**, Delmarva has conducted its annual SOS procurements using the reverse auction for all supply contracts since those commencing on June 1, 2009;<sup>7</sup> and

**WHEREAS**, on October 6, 2009, September 21, 2010, September 20, 2011, September 18, 2012, September 26, 2013, September 30, 2014, September 22, 2015, October 6, 2016, September 14, 2017, September 25, 2018, September 9, 2020, September 15, 2021, and

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<sup>4</sup> See Order No. 7432 (Aug. 19, 2008). The Commission modified the SOS procurement rules to add language to relieve the wholesale suppliers from the requirement to provide RECs and solar renewable energy credits to meet Delaware's Renewable Energy Portfolio Standards Act's obligations and to excuse them from compliance with any other federal or state requirements for SOS that are met by the wind contracts.

<sup>5</sup> In 2015 World Energy was bought by EnerNOC and effective October 1, 2018, EnerNOC was rebranded to Enel X. The agreements and reverse auction platform have not changed.

<sup>6</sup> See Order No. 7461 (Oct. 7, 2008). The original RFP format was a simple sealed bid process in which bidders had one chance to submit bids for any or all available blocks without knowing other bids, the idea being that bidders would be forced to submit their best price. In contrast, the new reverse auction format relies upon bidders' awareness of other bidders' actions in an attempt to drive prices down. A starting price for each block is set prior to the submission of bids, and a separate auction is conducted for each available block. The auctions open simultaneously, and bidders may submit as many bids as they like on each block as long as each bid is below the starting price.

<sup>7</sup> The procurement was conducted in two "tranches" and originally secured three-year supply contracts for one-third of the residential SOS load and one-year contracts for 100% of the load for other "fixed price" types of service. In Order No. 9064 dated May 23, 2017, the Commission approved transitioning from three-year to two-year laddered supply contracts for residential and small commercial customers. Staff and the Commission's consultant observed and evaluated the procurement of each tranche.

September 14, 2022, the Commission approved additional changes to the procurement process;<sup>8</sup> and

**WHEREAS**, in Order No. 9064, dated May 23, 2017, the Commission approved two-year laddered fixed price full requirement contracts for Residential and Small Commercial and Industrial customers to replace the three-year fixed price full requirement contracts upon their expiration;; and

**WHEREAS**, in Order No. 9612, dated June 17, 2020, the Commission approved Delmarva to use a proxy price for capacity for its Residential and Small Commercial two-year contracts for the delivery year beginning June 1, 2022 and ending May 31, 2023; and

**WHEREAS**, in Order No. 9838, dated July 14, 2021, the Commission approved Delmarva's request to use an updated proxy price for capacity in Tranche 1 for its Residential

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<sup>8</sup> See Order No. 7670 (Oct. 6, 2009), Order No. 7846 (Sept. 21, 2010), and Order No. 8038 (Sept. 20, 2011). Order No. 8216 (Sept. 18, 2012) changed the RFP procurement amounts and dates, revised certain sections to allow execution by electronic signatures, revised the World Energy Solutions Supplier Agreement, and revised the FSA to include language allowing certain documents to be executed by electronic signatures, the new version of the PJM's Declaration of Authority, and updated the Sample PJM Invoice. Order No. 8460 (September 26, 2013) changed the RFP to reflect current procurement amounts and dates, updated the World Energy Solution Supplier Agreement, and revised the FSA to include an amended Declaration of Authority if PJM requires such document and documentation to support market administration. Order No. 8642 (Sept. 30, 2014) changed the RFP to reflect current procurement amounts and dates, and information about a proposed change to PJM's Declaration of Authority. Order No. 8795 (Sept. 22, 2015) replaced references to World Energy with EnerNOC, eliminated the eligibility requirement for the applicant to be registered with NERC, clarified the requirements for establishing an applicant's pre-bid creditworthiness, and changed the procurement amounts and dates. Order No. 8946 (Oct. 6, 2016) amended the RFP bidding schedule and approved a change to the FSA incorporating a new Transmission Enhancement Settlement Charge established by PJM. Order No. 9113 (Sept. 14, 2017) amended the RFP bidding schedule, transitioned the RSCI contracts from three-year laddered to two-year laddered, changed the eligibility requirements for the applicant and changed the FSA to delete the definition of "Buyer Downgrade Event". Order No. 9276 (Sept. 25, 2018) amended the RFP bidding schedule, continued the transition of RSCI contracts from three-year to two-year laddered, changed the requirement for Performance Assurance, and changed the FSA to make explicit that Sellers not rated by two of the three credit rating agencies are not eligible to receive unsecured credit. Order No. 9463 (Sept. 12, 2019) amended the RFP bidding schedule, clarified that the posting of creditworthiness collateral is required to be pre-bid collateral for eligibility of applicants, and changed the pre-bid software to Ariba. Order No. 9645 (Sept. 9, 2020) revised the pre-bid collateral requirement (RFP § 3.1) for suppliers who have a rated Guarantor that is unable to submit a Guaranty, from \$400,000 to \$600,000 (which is the same collateral requirement as that for unrated entities) and otherwise made certain updates and administrative changes. On September 15, 2021, the Commission issued Order No. 9879 in Docket No. 21-0627 approving modifications to the pre-bid collateral requirement whereby the participant posts collateral for every block the participant intends to win, added a due date for when bid collateral is due and updated the capacity proxy price. On September 14, 2022, the Commission issued Order No. 10099 in Docket No. 22-0703, updating the proxy price for capacity to \$69.53/MW-day for Tranche 1 bids for RSCI customers for DY 2024/25.

and Small Commercial two-year contracts for the delivery year beginning June 1, 2023 and ending May 31, 2024 based on the most recent Base Residual Auction (“BRA”); and

**WHEREAS**, on August 17, 2021, Delmarva filed documents with the Commission pertaining to the RFP<sup>9</sup> and FSA associated with the 2022 SOS Procurement Process that include proposed changes to the upcoming Delaware 2022 SOS procurement cycle and procurement process;<sup>10</sup> and

**WHEREAS**, on August 19, 2022, Delmarva made this filing, Docket No. 22-0703 (“the Filing”), consisting of: Exhibit 1, which contains a summary of the 2023 SOS Procurement Improvement Process proposals; Exhibit 2, which is the redlined “Delmarva Power & Light 2023 Request for Proposals for Full Requirements Wholesale Electric Power Supply in Delaware” (“RFP”); Exhibit 3, which is the clean version of the RFP; Exhibit 4, which is the redlined version of the “Full Requirements Service Agreement” (“FSA”); Exhibit 5, which is the clean version of the FSA; and Exhibit 6, which is the Delmarva SOS Stakeholder List for Delaware; and

**WHEREAS**, in the Filing, Delmarva requested that the Commission approve the following changes to the SOS procurement process: (1) update the proxy price for capacity to \$69.53/MW-day for Tranche 1 bids for the Residential and Small Commercial & Industrial class in the RFP and the FSA; and (2) revise the dates in the schedule for the RFP process, the applicable block sizes and peak load contributions; and

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<sup>9</sup> References to “EnerNOC” in the RFP were changed to “Enel X” because, effective October 1, 2018, EnerNOC rebranded to “Enel X.” The agreements and reverse auction platform have not changed.

<sup>10</sup> See PSC Docket 21-0627.

**WHEREAS**, pursuant to 26 *Del. C.* § 1007(c)(1)a, the Commission is specifically authorized to modify the SOS procurement process;<sup>11</sup> and

**WHEREAS**, December 13, 2022, PJM's Interconnection, LLC ("PJM") BRA for delivery year 2024/2025 closed, but the auction prices were not published due to the results not reflecting actual supply and demand; and

**WHEREAS**, December 23, 2022, PJM requested the Federal Energy Regulatory Commission ("FERC")<sup>12</sup> to allow corrections to be made under certain conditions to ensure an accurate Locational Deliverability Area Reliability Requirement in clearing auctions. PJM stated that absent the proposed changes requested that the auction would result in an unjust and unreasonable outcome; and

**WHEREAS**, FERC may not rule on PJM's filings until after Delmarva's Tranche 2 occurs, which will be on January 30, 2023. Therefore, Staff respectfully recommends the Commission approve a capacity proxy price of \$69.53/MW-day to be used by wholesale suppliers in their bids for RSCI customers for delivery year 2024/2025 if the actual Delmarva zonal capacity price is not known;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE  
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That the Commission hereby approves for the upcoming SOS Tranche 2 and Tranche 3 auctions the use of a capacity proxy price of \$69.53/MW-day for wholesale

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<sup>11</sup>26 *Del. C.* § 1007(c)(1)a provides, in pertinent part, the following: "At least 30 percent of the resource mix of DP&L shall be purchases made through the regional wholesale market via a bid procurement or auction process held by DP&L. Such process shall be overseen by the Commission *subject to the procurement process approved in PSC Docket #04-391 as may be modified by future Commission action.*" (Emphasis added.)

<sup>12</sup> FERC Docket Nos. ER23-729-000, dated Dec. 23, 2022, and EL23-19-000, dated Dec. 23, 2022.

suppliers to use in their bids for the RSCI class for delivery year 2024/2025 *if* the Delmarva zonal capacity price for the 2024-25 BRA is not known at the time of the Tranche 2 and Tranche 3 auctions. The capacity proxy price will be calculated by taking the average of the DPL Adjusted Preliminary Zonal Capacity Price from PJM's June 21, 2022 BRA for delivery year 2023-24 (*i.e.*; \$56.57/MW-Day) and PJM's June 1, 2022 Third Incremental Auction Final Zonal Net Load Price for delivery year 2022-23 (*i.e.*; \$97.93/MW-day) multiplied by a factor of 0.9, which equals a capacity proxy price of \$69.53/MW-day for the delivery year beginning June 1, 2023 and ending May 31, 2024.

2. That Delmarva shall pay to or credit wholesale suppliers the difference between the Final DPL Zonal Net Load Price for the delivery year 2024-25 and the proxy price multiplied by the daily unforced capacity obligation of the wholesale supplier.

3. That Delmarva shall adjust its rates for the RSCI classes from June 1, 2024 to May 31, 2025, to reflect the difference between the actual capacity price for the delivery year 2024-25 and the capacity proxy price reflected in the bids.

4. That Delmarva shall revise its "Request for Proposals for Full Requirements Wholesale Electric Power Supply in Delaware for 2023" and the "Full Requirements Service Agreement" as needed to reflect the approved changes.

5. That the Commission reserves the jurisdiction and authority to enter such further Orders as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

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Dallas Winslow, Chairman

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Joanne Conaway, Commissioner

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Harold Gray, Commissioner

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Manubhai “Mike” Karia, Commissioner

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Kim F. Drexler, Commissioner

**ATTEST:**

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Donna Nickerson, Secretary